

AMENDED IN SENATE JULY 3, 2001
AMENDED IN SENATE JUNE 20, 2001
AMENDED IN ASSEMBLY MAY 10, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 874

Introduced by Assembly Member Horton
(Coauthor: Senator Vincent)

February 22, 2001

An act to amend Sections 12209, 17053.57, and 23657 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 874, as amended, Horton. Insurance taxation: credit.

Existing insurance tax law requires every insurer, as defined, doing business in this state, to annually pay a tax on gross premiums, as specified, at the rates and subject to the deductions provided by law. Except as otherwise provided, the rate of tax to be applied to the basis of the annual tax in respect to each year is 2.35%. Existing insurance tax law, and the Personal Income Tax Law and the Bank and Corporation Tax Law, authorize, until January 1, 2002, a credit in an amount equal to 20% of a qualified deposit, as defined, made into a community development financial institution, as defined.

The bill would extend the operation of the credits until January 1, 2005, and ~~would modify the definition of a community development financial institution to include an institution that has affordable low-income housing as its primary mission~~ *would instead apply the*

credits to a qualified “investment.” The bill would make related changes.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12209 of the Revenue and Taxation
2 Code is amended to read:

3 12209. (a) For each year beginning on or after January 1,
4 1999, and before January 1, 2005, there shall be allowed as a credit
5 against the amount of tax, as defined in Section 28 of Article XIII
6 of the California Constitution, an amount equal to 20 percent of the
7 amount of each qualified ~~deposit~~ investment made by a taxpayer
8 during the year into a community development financial
9 institution.

10 (b) For purposes of determining any tax that may be imposed
11 under Section 685 of the Insurance Code on a taxpayer not
12 organized under the laws of this state, the amount of the credit
13 allowed by subdivision (a) shall be treated as a tax paid under
14 Section 12201 or Section 28 of Article XIII of the California
15 Constitution.

16 (c) Notwithstanding any other provision of this part, no credit
17 is allowed under this section unless the California Organized
18 Investment Network of the Department of Insurance, or its
19 successor, certifies that the ~~deposit~~ investment described in
20 subdivision (a) qualifies for the credit under this section and
21 certifies the total amount of the credit allocated to the taxpayer
22 pursuant to this section. The aggregate amount of qualified
23 ~~deposits~~ investments made by all taxpayers pursuant to this
24 section, Section 17053.57, and Section 23657 shall not exceed ten
25 million dollars (\$10,000,000) for each calendar year. *However, if*
26 *the aggregate amount of qualified investments made in any*
27 *calendar year is less than ten million dollars (\$10,000,000), the*
28 *difference may be carried over to the next year, and any succeeding*
29 *year during which this section remains in effect, and added to the*
30 *aggregate amount authorized for those years.*

31 (d) The community development financial institution shall do
32 all of the following:



1 (1) Apply to the California Organized Investment Network
2 *within the Department of Insurance*, or its successor, for
3 certification of its status as a community development financial
4 institution.

5 (2) Apply to the California Organized Investment Network
6 *within the Department of Insurance*, or its successor, on behalf of
7 the taxpayer for certification of the ~~credit amount allocated to the~~
8 ~~taxpayer prior to accepting any qualified deposit from the~~
9 ~~taxpayer.~~

10 ~~(3) Transmit to the taxpayer and the California Organized~~
11 ~~Investment Network, or its successor, certification that a qualified~~
12 ~~deposit has been accepted, the amount of the deposit or equity~~
13 ~~investment, and the amount of the credit to which the taxpayer is~~
14 ~~entitled, and retain a copy of the certification.~~

15 ~~(4) amount of the investment and the credit amount allocated~~
16 ~~to the taxpayer, obtain the certification, and retain a copy of the~~
17 ~~certification.~~

18 (3) Obtain the taxpayer's California company identification
19 number for tax administration purposes and provide this
20 information to the California Organized Investment Network
21 *within the Department of Insurance*, or its successor, with the
22 ~~transmittal~~ application required in paragraph ~~(3)~~ (2).

23 ~~(5)~~
24 (4) Provide an annual listing to the board, in the form and
25 manner agreed upon by the board and the California Organized
26 Investment Network *within the Department of Insurance*, or its
27 successor, of the names and taxpayer's California company
28 identification numbers of any taxpayer who makes any withdrawal
29 or partial withdrawal of a qualified ~~deposit investment~~ before the
30 expiration of 60 months from the date of the qualified ~~deposit~~
31 ~~investment.~~

32 (e) The California Organized Investment Network *within the*
33 *Department of Insurance*, or any successor thereof, shall do all of
34 the following:

35 (1) Accept applications for certification from financial
36 institutions and issue certificates that the applicant is a community
37 development financial institution qualified to receive qualified
38 ~~deposits investments.~~

39 (2) Accept applications for certification from any community
40 development financial institution on behalf of the taxpayer and

1 issue certificates to taxpayers in an aggregate amount that may not
2 exceed the limit specified in subdivision (c). The certificate shall
3 include the amount eligible to be made as a deposit or ~~equity an~~
4 investment that qualifies for the credit and the total amount of the
5 credit to which the taxpayer is entitled for the year. Certificates
6 shall be issued in the order that the applications are received.

7 (3) Provide an annual listing to the board, in the form or manner
8 agreed upon by the board and the California Organized Investment
9 Network *within the Department of Insurance*, or its successor, of
10 the taxpayers who were issued certificates, their respective
11 National Association of Insurance Commissioners company
12 number and employer's tax identification number, the amount of
13 the qualified ~~deposit investment~~ made by each taxpayer, and the
14 total amount of qualified ~~deposits investments~~.

15 (f) For purposes of this section:

16 ~~(1) "Qualified deposit" means a deposit that does not earn~~
17 ~~interest, or an equity investment, that is equal to or greater than~~
18 ~~fifty thousand dollars (\$50,000) and is made for a minimum~~
19 ~~duration of 60 months.~~

20 (1) "*Qualified investment*" means a deposit or loan that does
21 not earn interest, or an equity investment, or an equity-like debt
22 instrument that conforms to the specification for these instruments
23 as prescribed by the United States Department of the Treasury,
24 Community Development Financial Institutions Fund, or its
25 successor. All qualified investments must be equal to or greater
26 than fifty thousand dollars (\$50,000) and be made for a minimum
27 duration of 60 months.

28 (2) "Community development financial institution" means a
29 private financial institution located in this state that is certified by
30 the California Organized Investment Network *within the*
31 *Department of Insurance*, or its successor, that has community
32 development ~~or affordable low-income housing~~ as its primary
33 mission, and that lends in urban, rural, or reservation-based
34 communities in this state. A community development financial
35 institution may include a community development bank, a
36 community development loan fund, a community development
37 credit union, a microenterprise fund, a community development
38 corporation-based lender, and a community development venture
39 fund.

(g) (1) If a qualified ~~deposit investment~~ is withdrawn before the end of the 60th month and not ~~redeposited or~~ reinvested in another community development financial institution within 60 days, there shall be added to the “tax,” as defined in Section 28 of Article XIII of the California Constitution, for the year in which the withdrawal occurs, the entire amount of any credit previously allowed under this section.

(2) If a qualified ~~deposit investment~~ is reduced before the end of the 60th month, but not below fifty thousand dollars (\$50,000), there shall be added to the “tax,” as defined in Section 28 of Article XIII of the California Constitution, for the ~~income taxable~~ year in which the reduction occurs, an amount equal to 20 percent of the total reduction for the year.

(h) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” for the next four years, or until the credit has been exhausted, whichever occurs first.

(i) *The board shall, as requested by the California Organized Investment Network within the Department of Insurance, or its successor, advise and assist in the administration of this section.*

(j) This section shall remain in effect only until December 31, 2005, and as of that date is repealed. ~~However, any unused credit may continue to be carried forward, as provided in subdivision (h), until the credit is exhausted.~~

(j) The amendments made to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 2001.

SEC. 2. Section 17053.57 of the Revenue and Taxation Code is amended to read:

17053.57. (a) For each taxable year beginning on or after January 1, 1997, and before January 1, 2005, there shall be allowed as a credit against the amount of “net tax,” as defined in Section 17039, an amount equal to 20 percent of the amount of each qualified ~~deposit investment~~ made by a taxpayer during the taxable year into a community development financial institution.

(b) Notwithstanding any other provision of this part, no credit is allowed under this section unless the California Organized Investment Network of the Department of Insurance, or its successor, certifies that the ~~deposit investment~~ described in subdivision (a) qualifies for the credit under this section and

1 certifies the total amount of the credit allocated to the taxpayer
2 pursuant to this section. The aggregate amount of qualified
3 ~~deposits investments~~ made by all taxpayers pursuant to ~~this section~~
4 *Section 12209, this section, and Section 23657* shall not exceed ten
5 million dollars (\$10,000,000) for each calendar year. *However, if*
6 *the aggregate amount of qualified investments made in any*
7 *calendar year is less than ten million dollars (\$10,000,000), the*
8 *difference may be carried over to the next year, and any succeeding*
9 *year during which this section remains in effect, and added to the*
10 *aggregate amount authorized for those years.*

11 (c) The Community Development Financial Institution shall
12 do all of the following:

13 (1) Apply to the California Organized Investment Network
14 *within the Department of Insurance*, or its successor, for
15 certification of its status as a Community Development Financial
16 Institution.

17 (2) Apply to the California Organized Investment Network
18 *within the Department of Insurance*, or its successor, on behalf of
19 the taxpayer for certification of the ~~credit amount allocated to the~~
20 ~~taxpayer prior to accepting any qualified deposit from the~~
21 ~~taxpayer.~~

22 ~~(3) Transmit to the taxpayer and the California Organized~~
23 ~~Investment Network, or its successor, certification that a qualified~~
24 ~~deposit has been accepted, the amount of the deposit or equity~~
25 ~~investment, and the amount of credit to which the taxpayer is~~
26 ~~entitled, and retain a copy of the certification.~~

27 ~~(4) amount of the investment and the credit amount allocated~~
28 ~~to the taxpayer, obtain the certification, and retain a copy of the~~
29 ~~certification.~~

30 (3) Obtain the taxpayer's identification number, or in the case
31 of a partnership, the taxpayer identification numbers of all the
32 partners for tax administration purposes and provide this
33 information to the California Organized Investment Network
34 *within the Department of Insurance*, or its successor, with the
35 ~~transmittal~~ application required in paragraph ~~(3)~~ (2).

36 ~~(5)~~

37 (4) Provide an annual listing to the Franchise Tax Board, in the
38 form and manner agreed upon by the Franchise Tax Board and the
39 California Organized Investment Network *within the Department*
40 *of Insurance*, or its successor, of the names and taxpayer

identification numbers of any taxpayer who makes any withdrawal or partial withdrawal of a qualified ~~deposit~~ *investment* before the expiration of 60 months from the date of the qualified ~~deposit~~ *investment*.

(d) The California Organized Investment Network *within the Department of Insurance*, or any successor thereof, shall do all of the following:

(1) Accept applications for certification from financial institutions and issue certificates that the applicant is a Community Development Financial Institution qualified to receive qualified ~~deposits~~ *investments*.

(2) Accept applications for certification from any Community Development Financial Institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that may not exceed the limit specified in subdivision (b). The certificate shall include the amount eligible to be made as a ~~deposit or equity~~ *an investment* that qualifies for the credit and the total amount of the credit to which the taxpayer is entitled for the taxable year. Certificates shall be issued in the order in which the applications are received.

(3) Provide an annual listing to the Franchise Tax Board, in a form or manner agreed upon by the Franchise Tax Board, *and the California Organized Investment Network within the Department of Insurance, or its successor*, of the taxpayers who were issued certificates, their respective tax identification numbers, the amount of the qualified ~~deposit~~ *investment* made by each taxpayer, and the total amount of all qualified ~~deposits~~ *investments*.

(e) For purposes of this section:

~~(1) "Qualified deposit" means a deposit that does not earn interest, or an equity investment, that is equal to or greater than fifty thousand dollars (\$50,000) and is made for a minimum duration of 60 months.~~

(1) "*Qualified investment*" means a deposit or loan that does not earn interest, or an equity investment, or an equity-like debt instrument that conforms to the specifications for these instruments as prescribed by the United States Department of the Treasury, Community Development Financial Institutions Fund, or its successor. All qualified investments must be equal to or greater than fifty thousand dollars (\$50,000) and be made for a minimum duration of 60 months.

1 (2) “Community development financial institution” means a
2 private financial institution located in this state that is certified by
3 the California Organized Investment Network *within the*
4 *Department of Insurance*, or its successor, that has community
5 development or affordable low-income housing as its primary
6 mission, and that lends in urban, rural, or reservation-based
7 communities in this state. A community development financial
8 institution may include a community development bank, a
9 community development loan fund, a community development
10 credit union, a microenterprise fund, a community development
11 corporation-based lender, and a community development venture
12 fund.

13 (f) (1) If a qualified ~~deposit investment~~ is withdrawn before
14 the end of the 60th month and not ~~redeposited or~~ reinvested in
15 another Community Development Financial Institution within 60
16 days, there shall be added to the “net tax,” as defined in Section
17 17039, for the taxable year in which the withdrawal occurs, the
18 entire amount of any credit previously allowed under this section.

19 (2) If a qualified ~~deposit investment~~ is reduced before the end
20 of the 60th month, but not below fifty thousand dollars (\$50,000),
21 there shall be added to the “net tax,” as defined in Section 17039,
22 for the taxable year in which the reduction occurs, an amount equal
23 to 20 percent of the total reduction for the taxable year.

24 (g) In the case where the credit allowed by this section exceeds
25 the “net tax,” the excess may be carried over to reduce the “net
26 tax” for the next four taxable years, or until the credit has been
27 exhausted, whichever occurs first.

28 (h) *The Franchise Tax Board shall, as requested by the*
29 *California Organized Investment Network within the Department*
30 *of Insurance or its successor, advise and assist in the*
31 *administration of this section.*

32 (i) This section shall remain in effect only until December 1,
33 2005, and as of that date is repealed.

34 ~~(i)~~

35 (j) The amendments made to this section by the act adding this
36 subdivision shall apply only to taxable years beginning on or after
37 January 1, 2001.

38 SEC. 3. Section 23657 of the Revenue and Taxation Code is
39 amended to read:

23657. (a) For each taxable year beginning on or after January 1, 1997, and before January 1, 2005, there shall be allowed as a credit against the amount of “tax,” as defined in Section 23036, an amount equal to 20 percent of the amount of each qualified ~~deposit~~ *investment* made by a taxpayer during the taxable year into a community development financial institution.

(b) Notwithstanding any other provision of this part, no credit is allowed under this section unless the California Organized Investment Network ~~of~~ *within* the Department of Insurance, or its successor, certifies that the ~~deposit~~ *investment* described in subdivision (a) qualifies for the credit under this section and certifies the total amount of the credit allocated to the taxpayer pursuant to this section. The aggregate amount of qualified ~~deposits~~ *investments* made by all taxpayers pursuant to this section, *Section 12209*, and *Section 17053.57* shall not exceed ten million dollars (\$10,000,000) for each calendar year. *However, if the aggregate amount of qualified investments made in any calendar year is less than ten million dollars (\$10,000,000), the difference may be carried over to the next year, and any succeeding year during which this section remains in effect, and added to the aggregate amount authorized for those years.*

(c) The Community Development Financial Institution shall do all of the following:

(1) Apply to the California Organized Investment Network *within the Department of Insurance*, or its successor, for certification of its status as a Community Development Financial Institution.

(2) Apply to the California Organized Investment Network *within the Department of Insurance*, or its successor, on behalf of the taxpayer, for certification of the ~~credit amount allocated to the taxpayer prior to accepting any qualified deposit from the taxpayer.~~

~~(3) Transmit to the taxpayer and the California Organized Investment Network, or its successor, certification that a qualified deposit has been accepted, amount of the deposit or equity investment, and the amount of credit to which the taxpayer is entitled, and retain a copy of the certification.~~

~~(4) amount of the investment and the credit amount allocated to the taxpayer, obtain the certification, and retain a copy of the certification.~~

(3) Obtain the taxpayer's identification number, or in the case of an "S corporation," the taxpayer identification numbers of all the shareholders for tax administration purposes and provide this information to the California Organized Investment Network *within the Department of Insurance*, or its successor, with the transmittal required in paragraph (3).

~~(5)–~~

(4) Provide an annual listing to the Franchise Tax Board, in the form and manner agreed upon by the Franchise Tax Board and the California Organized Investment Network *within the Department of Insurance*, or its successor, of the names and taxpayer identification numbers of any taxpayer who makes any withdrawal or partial withdrawal of a qualified deposit before the expiration of 60 months from the date of the qualified ~~deposit~~ investment.

(d) The California Organized Investment Network *within the Department of Insurance*, or any successor thereof, shall do all of the following:

(1) Accept applications for certification from financial institutions and issue certificates that the applicant is a Community Development Financial Institution qualified to receive qualified ~~deposits~~ investments.

(2) Accept applications for certification from any Community Development Financial Institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that may not exceed the limit specified in subdivision (b). The certificate shall include the amount eligible to be made as a ~~deposit or equity~~ an investment that qualifies for the credit and the total amount of the credit to which the taxpayer is entitled for the taxable year. Certificates shall be issued in the order that the applications are received.

(3) Provide an annual listing to the Franchise Tax Board, in the form or manner agreed upon by the Franchise Tax Board and the California Organized Investment Network *within the Department of Insurance*, or its successor, of the taxpayers who were issued certificates, their respective tax identification numbers, the amount of the qualified ~~deposit~~ investment made by each taxpayer, and the total amount of all qualified ~~deposits~~ investments.

(e) For purposes of this section:

~~(1) "Qualified deposit" means a deposit that does not earn interest, or an equity investment, that is equal to or greater than~~

~~fifty thousand dollars (\$50,000) and is made for a minimum duration of 60 months.~~

(1) “*Qualified investment*” means a deposit or loan that does not earn interest, or an equity investment, or an equity-like debt instrument that conforms to the specifications for these instruments as prescribed by the United States Department of the Treasury, Community Development Financial Institutions Fund, or its successor. All qualified investments must be equal to or greater than fifty thousand dollars (\$50,000) and be made for a minimum duration of 60 months.

(2) “Community development financial institution” means a private financial institution located in this state that is certified by the California Organized Investment Network *within the Department of Insurance*, or its successor, that has community development ~~or affordable low-income housing~~ as its primary mission, and that lends in urban, rural, or reservation-based communities in this state. A community development financial institution may include a community development bank, a community development loan fund, a community development credit union, a microenterprise fund, a community development corporation-based lender, and a community development venture fund.

(f) (1) If a qualified ~~deposit investment~~ is withdrawn before the end of the 60th month and not ~~redeposited or~~ reinvested in another Community Development Financial Institution within 60 days, there shall be added to the “tax,” as defined in Section 23036, for the taxable year in which the withdrawal occurs, the entire amount of any credit previously allowed under this section.

(2) If a qualified ~~deposit investment~~ is reduced before the end of the 60th month, but not below fifty thousand dollars (\$50,000), there shall be added to the “tax,” as defined in Section 23036, for the taxable year in which the reduction occurs, an amount equal to 20 percent of the total reduction for the taxable year.

(g) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” for the next four taxable years, or until the credit has been exhausted, whichever occurs first.

(h) *The Franchise Tax Board shall, as requested by the California Organized Investment Network within the Department*

1 *of Insurance, or its successor, advise and assist in the*
2 *administration of this section.*

3 (i) This section shall remain in effect only until December 1,
4 2005, and as of that date is repealed.

5 ~~(i)–~~

6 (j) The amendments made to this section by the act adding this
7 subdivision shall apply only to taxable years beginning on or after
8 January 1, 2001.

9 SEC. 4. This act provides for a tax levy within the meaning of
10 Article IV of the Constitution and shall go into immediate effect.

11 _____
12 CORRECTIONS

13 **Digest — Page 1.**

14 **Text — Pages 2 and 12.**

15 _____
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